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September 10, 2007

Ms. Jennifer J. Johnson
Secretary
Federal Reserve System
20th Street & Constitution Ave., NW
Washington, DC 20551

Re: **Docket No. OP-1290**

Dear Ms. Johnson:

I am writing from Woodstock Institute to comment on the proposed interagency questions and answers regarding community reinvestment. Woodstock Institute is a 34-year old, Chicago-based research and policy organization that focuses on promoting economic development in lower-income and minority communities. Woodstock Institute has worked extensively with the Community Reinvestment Act (CRA) since its passage. Woodstock Institute also convenes the Chicago CRA Coalition, a regional coalition of community development organizations interested in improving bank lending, investments, and services in underserved markets. The Coalition regularly meets with regional community affairs staff of the federal regulatory agencies to discuss the implementation of CRA.

We have specific comments on several of the questions and answers and general comments on broader CRA issues.

We welcome the additional clarification of specific activities for which banks and thrifts will get CRA credit. These include the clarifications that:

- Establishing a loan program to provide relief for low- and moderate-income homeowners facing foreclosure is an example of a type of program that is responsive to community credit needs (Q&A .22(a)-1)
- Assisting in foreclosure prevention counseling will be considered under community development services (Q&A .12(i)-3)
- Investing in a community development venture capital fund is an example of a qualified community development investment (Q&A .12(g)(3)-1)
- Participating in a SBA 504 loan over $1 million, a loan that would not be considered a "small business loan" under the lending test, will be considered as a community development loan (Q&A .26(a)(2)-1)

Such clarifications should reduce any uncertainty that banks might have regarding the CRA eligibility of these critical activities.

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We disagree with the question and answer regarding purchases of loan participations (Q&A .22(a)(2)-6). In previous comments, we have been opposed to giving equal credit to loans that are directly originated by banks and loans originated by third parties and purchased by banks. While we understand there is value to loan purchases, we feel that this value is not equal to that of directly originating a loan. Pools of purchased loans are often passed from bank to bank in order to give the purchasing institution a better result on the CRA lending test. There is no consideration of the terms of the loans being purchased, and loans can be purchased multiple times by different institutions. After the initial purchase from the originating institutions, these purchased loans offer little value to low- and moderate-income communities. In the current mortgage market where low- and moderate-income and minority communities are starved for bank originated, prime loans, we believe that expanding the definition of "purchase loans" to include transactions where banks purchase only parts of loans will only further serve to reduce the importance of directly originated loans and could serve as a disincentive for banks to directly lend to these underserved communities.

We also disagree with the question and answer regarding the consideration of loans purchased from affiliates (Q&A .22(c)(2)(i)). This Q & A would allow banks to purchase loans originated by affiliates as long as the same institution does not claim the origination and the purchase of the same loan. As mentioned in the previous discussion of the value of purchasing loan participations, we feel that giving loan purchases equal credit to loan originations already reduces the importance of direct originations of mortgages to underserved markets. Direct originations will once again be downgraded if bank holding companies are allowed to swap loans amongst affiliates in order to boost performance on the CRA lending test.

We also wish to take this opportunity to comment on a few other broader CRA issues not included in the questions and answers.

There needs to be significant changes to the designation of CRA assessment areas. For some banks, an assessment area may not be a relevant concept. Currently, CRA assessment areas are designated by the financial institutions and are meant to represent the areas where banks and thrifts have branches. Initially, this designation was meant to reflect the area from which a bank was taking deposits. In the modern financial services industry, however, banks are no longer tied to traditional branch networks for deposits and banks frequently do business such as mortgage lending well beyond the areas from which they take deposits. Internet banks and insurance banks, for example, have no traditional bank branch presence and take deposits from all over the country, yet these institutions are able to designate geographically limited assessment areas that often do not reflect their true area of business.

Additionally, banks have the ability to lend within and outside of their assessment areas, yet only loans originated within the assessment area are fully considered under CRA. Federal Reserve research has shown that CRA-regulated banks are more likely to originate higher cost loans outside of their assessment areas than within.[1] This indicates that CRA coverage is effective at encouraging banks to originate lower cost mortgages. We believe that in, the case of the lending test, all loans originated by an institution should be considered though within and without assessment area loans should be considered separately.

[1] See Avery, Robert B., Kenneth P. Brevoort, and Glenn B. Canner. September 2006. "Higher Priced Home Lending and the 2005 HMDA Data." *Federal Reserve Bulletin.* Washington, D.C.

Similarly, we feel that lending by all affiliates within a bank holding company should be considered on an institution's lending test. A research report examining the home purchase lending of eight large bank holding companies that have entities making both prime and subprime loans shows these holding companies have larger higher cost lending disparities to minority borrowers than the regional averages in the metropolitan areas examined.[2] We have substantial concerns around the enforcement of fair lending laws for bank holding companies that have such a range of products. Given the increasingly complex nature of the banking industry, we do not feel that banks within large holding companies should be given credit for their prime loans while another affiliate, not covered by CRA, is making subprime loans with potentially abusive and deceptive terms and underwriting.

We also would like to comment on the state of the large bank CRA service test. A report released by the Woodstock Institute examined the service test performance evaluation of a number of Chicago area large banks.[3] It found substantial inconsistencies in the analysis of bank branch data and limited descriptions and inconsistent data on retail accounts and community development services. Among a number of recommendations, the reports stated that regulatory agencies must collect standardized data on new and existing retail checking and savings accounts. These data should include information on account holder census tract, year opened, and average annual balance. The agencies must develop more performance-based measurements of the provision of banking services and retail deposit accounts of lower-income households. Also, branch distribution should be measured in a consistent manner against the percent of households living in low-and moderate income neighborhoods in the bank's assessment area.

We thank you for your consideration of our comments.

Sincerely,

Geoffrey Smith
Research Director

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[2]See California Reinvestment Coalition, Community Reinvestment Association of North Carolina, Et. Al. March 2007. *Paying More for the American Dream: A Multi-State Analysis of Higher Cost Home Purchase Lending.* Woodstock Institute: Chicago, IL.

[3]See Smith, Geoff. May 2007. *Reinvestment Alert 31: Measuring the Provision of Banking Services to the Underbanked: Recommendations for a More Effective Community Reinvestment Act Service Test.* Woodstock Institute: Chicago, IL.